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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,292	04/11/2005	Christopher P. Parle	7095CEL-1	5274
23442	7590	07/16/2008		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	
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			07/16/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/505,292

## Applicant(s)

PARLE ET AL.

## Examiner

Stephen Gravini

## Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-26, 29, 30 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-26, 29, 30 and 32-34 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. That claim recites "substantially parallel to of the curved path" which is indefinite because of the "to of" recitation is grammatically confusing.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lizé (US 5,636,450). The claims are reasonably and broadly construed in light of the specification, as being disclosed by Lizé for comprising:

an IR dryer, for use in drying a continuous paper web (col. 1, line 24) by means of IR radiation (col. 1, line 31), comprising:

an array of IR emitters (7, fig. 2) having a length and arranged in spaced relation to the paper web (1, fig. 2);

a lamp protection plate (9, fig. 2) placed intermediate the IR emitters (7, fig. 2) and the paper web;

said lamp protection plate having a length wherein a paper web is moved in a curved path to dry the paper web and wherein at least one of the lamp protection plate and array of IR emitters is curved along its length and extends substantially parallel to of the curved path (fig. 2, col. 1, lines 30-35); or alternatively:

an IR dryer, for use in drying a continuous paper web (col. 1, line 24) by means of IR radiation (col. 1, line 31), comprising:

an array of IR emitters (7, fig. 2) arranged in use, in spaced relation to the paper web, said array of IR emitters comprising a plurality of first quartz tubes and each tube having an IR heating element therein (1, fig. 2);

a lamp protection plate (9, fig. 2) intermediate the IR emitters (7, fig. 2) and the paper web;

said lamp protection plate comprising a second plurality of quartz tubes arranged in an array (fig. 2, col. 1, lines 30-35). Lizé also discloses gas powered heating elements inherently since it is well known that IR heating is by lamps and/or gas burning sources, gas passage cooling, curved reflector plate, second plurality of quartz tubes, side by side arrangement, same paper directional movement extending in the same direction as shown in figures 1-3.

***Allowable Subject Matter***

Claims 11-26, 29-30, and 32-34 are allowable over the prior art as discussed in prior Office actions, along with the amended feature in claim 29 such that the IR emitter is curved along its length.

***Response to Arguments***

Applicant's arguments with respect to claims 1-8 and 10 have been considered but are not persuasive.

*anticipation*

Current Office practice guides examination such that claims are reasonably and broadly construed in light of the accompanying specification. In this application, the applicants urge claim construction to be more narrow than guided by current practice. Specifically, applicants argue that the claimed "IR emitters is curved along its length and extends substantially parallel to and curved in a direction of the curved path" should be construed to be patentable over the IR emitter lamps 7, taught in primary reference Lizé at column 2 line 65 through column 3 line 8 and shown in figures 1 and 2. To those skilled in the art, the plain meaning of the claimed and argued "array having its length substantially parallel to and curved" is anticipated by the disclosed teaching because both show that an array of emitter lamps in the direction of the intended use. It is recognized that the claimed array meets the claimed parallel and curved direction and is construed under current Office guidance.

Claim 1 recites a "lamp protection plate and array of IR emitters has its length extending substantially parallel to and curved in a direction of the curved path." Claim 7 has not been amended. In both claims the plates and emitters curve along the web path, as shown in Lizé and discussed in the rejection above. Both claims 1 and 7 are construed such that the teachings of Lizé anticipate the claimed elements

In this application, the anticipatory rejection is believed proper and maintained.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on 571 272 6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3749

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Gravini/  
Primary Examiner, Art Unit 3749